

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF SOUTH DAKOTA

3 NORTHERN DIVISION

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5 UNITED STATES OF AMERICA,	*	1:12-CR-10047-LLP
6 Plaintiff,	*	
7 -vs-	*	Aberdeen, South Dakota
8 MARIO M. CONTRERAS,	*	August 16, 2012
9 Defendant.	*	
	*	

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11 TRANSCRIPT OF
12 INITIAL APPEARANCE AND ARRAIGNMENT

13 BEFORE THE HONORABLE CHARLES B. KORNMANN
14 UNITED STATES DISTRICT JUDGE

* * * * *

15 APPEARANCES:

16 Counsel for Plaintiff: MR. THOMAS WRIGHT
Assistant United States Attorney
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18 Counsel for Defendant: MS. CHRISTY GRIFFIN SERR
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CONNIE HECKENLAIBLE, RPR

1 **August 16, 2012**

2 (In open court at 1:23 p.m.)

3 THE COURT: (Inaudible) United States of America versus
4 Mario M. Contreras. Is that pronounced correctly, sir?

5 THE DEFENDANT: Contreras.

6 THE COURT: Yes, okay. The Defendant is personally
7 present. Seated at counsel table with him is Christy Griffin
8 Serr who has been contacted by the Magistrate Judge in case
9 counsel should be appointed to represent him. Mr. Contreras,
10 in the course of this hearing, I'm going to have some questions
11 for you, and I want you to answer those under oath. So I want
12 you to stand up, raise your right hand and be sworn, please.

13 (The Defendant is sworn in by the Clerk.)

14 THE COURT: Please be seated. Do you understand, sir,
15 that you are now under oath and if you answer of my questions
16 falsely, you may then later be subject to a later prosecution
17 for perjury or for having made a false statement?

18 THE DEFENDANT: Yes.

19 THE COURT: Would you state for the record, please,
20 your full name, your age, and the extent of your formal
21 education.

22 THE DEFENDANT: Mario Michael Contreras.

23 THE COURT: Your age?

24 THE DEFENDANT: 34.

25 THE COURT: And your formal education?

1 THE DEFENDANT: High school education.

2 THE COURT: Some college though too, huh?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. Have you made a previous appearance
5 before any judge in this case?

6 THE DEFENDANT: No.

7 THE COURT: All right. Well, Mr. Thomas Wright is here
8 on behalf of the Government as Assistant United States
9 Attorney. Mr. Wright, do you want to proceed today with the
10 detention hearing as well as the arraignment?

11 MR. WRIGHT: Your Honor, we're prepared to do an
12 arraignment today. Our request on detention is the same as the
13 previous defendant, we would ask the Court for a detention
14 hearing and we would ask for a continuance of the detention
15 hearing of three to five business days pursuant to the statute.
16 We'd ask that the defendant be detained in the interim.

17 THE COURT: All right. Mr. Contreras, do you want to
18 proceed today with your arraignment?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. The matter of the detention
21 hearing, we will set that for 11:30 a.m. next Tuesday. Does
22 that work for your schedule, Ms. Griffin Serr?

23 MS. GRIFFIN SERR: Yes, sir.

24 THE COURT: Okay. 11:30 next Tuesday.

25 So we will proceed with the arraignment then. The

1 purpose of this proceeding, Mr. Contreras, is to tell you about
2 the charges that you are facing and the maximum punishments as
3 to each of those charges, to tell you about your rights so we
4 make sure you understand all of your statutory and
5 constitutional rights, and to decide whether or not an attorney
6 should be appointed to represent you and later to determine
7 whether or not you should be detained or released.

8 You have a right, of course, to remain silent at all
9 times regarding the charges in the Indictment. You are not
10 required to make any statement concerning allegations made in
11 the Indictment. If you make a statement, that statement may be
12 used against you in this proceeding or perhaps other
13 proceedings. If you start to make a statement, you have the
14 right to stop at any time. It is not the purpose of this --
15 this proceeding to ask you about the charges, but to make sure
16 that you understand all your rights and also to determine
17 whether or not an attorney should be appointed to represent
18 you. I take it that you have no problem understanding and
19 reading the English language; is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: And you are a U.S. citizen?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you have a copy of the Indictment?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you wish to have that Indictment read to

1 you or do you waive that right?

2 THE DEFENDANT: I'll waive it.

3 THE COURT: All right. Thank you. Is your name
4 correctly spelled in the Indictment?

5 THE DEFENDANT: Yes.

6 THE COURT: Are there any disabilities that you say
7 that you have that would make it difficult for you to take part
8 in this hearing or in any other hearings?

9 THE DEFENDANT: No.

10 THE COURT: The Indictment charges, of course as Mr.
11 Contreras knows because he's read it, he's charged in Count I
12 with murder -- second degree murder; with voluntary
13 manslaughter in Count II; in Count III with assault resulting
14 in serious bodily injury of an individual who had not attained
15 the age of 18 years; and he's charged in Count IV with child
16 abuse, cruelty toward a child who had not attained the age of 7
17 years and, of course, the allegations are that all of these
18 offenses took place in Indian country, as it's called, near
19 Waubay in the District of South Dakota. Do you understand
20 those matters, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: Mr. Wright, would you tell the Defendant
23 then and the Court what the maximum penalties are as to each of
24 those offenses.

25 MR. WRIGHT: Yes, I can, Your Honor. Count I, the

1 Defendant faces a maximum penalty of life imprisonment and
2 faces a mandatory minimum penalty of 30 years imprisonment. He
3 could get no less than 30 years if convicted on that. He faces
4 a man -- a maximum fine of \$250,000. If he gets a custody
5 sentence, he could be put on supervised release for up to five
6 years. If he violates any term or condition, he could get an
7 additional five years in custody. There's a mandatory \$100
8 assessment to the victims fund and he may be required to pay
9 restitution. On Counts II and IV, he faces the same maximum
10 penalty and there is no minimum penalty on those counts. The
11 maximum penalties for Counts II and IV is a maximum penalty of
12 15 years, a maximum fine of \$250,000. If he gets a custody
13 sentence, he could be put on supervised release for up to three
14 years. If he violates any term or condition, he could get an
15 additional two years of custody. For each count there's a
16 mandatory \$100 assessment to the victims fund and possible
17 restitution. And finally, sir, on Count III he faces a maximum
18 penalty of life imprisonment, a mandatory minimum penalty of 10
19 years if convicted on that count, a maximum fine of \$250,000.
20 If he gets a custody sentence, he could be put on supervised
21 release for five years. If he violates any term or condition,
22 he could get an additional five years in custody. There's also
23 a mandatory \$100 assessment if convicted on that count and
24 possible restitution.

25 THE COURT: All right. Thank you, Mr. Wright. Mr.

1 Contreras, do you understand now what the maximum penalties are
2 for each of the offenses which are charged against you?

3 THE DEFENDANT: Yes.

4 THE COURT: In other words, Mr. Wright this is an Adam
5 Walsh case as to Counts I and III; is that right?

6 MR. WRIGHT: Exactly correct.

7 THE COURT: All right. Thank you. Mr. Contreras,
8 under the Constitution of our country and the statutes, you
9 have a right to be represented by an attorney during any
10 questioning by authorities, at any lineup, and at all court
11 proceedings including this appearance here. Do you understand
12 that right?

13 THE DEFENDANT: Yes.

14 THE COURT: You are entitled to consult with your
15 attorney before anybody questions you or proceeds against you.
16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: If you cannot afford an attorney, one will
19 be appointed to represent you. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Even if you waive your right to an attorney
22 for this particular hearing, you may request an attorney for
23 all future proceedings. Do you understand that right?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you wish to hire your own attorney?

1 THE DEFENDANT: No.

2 THE COURT: You want a court-appointed attorney?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. And I have examined the
5 financial declaration. Is everything that you stated in that
6 financial declaration true and correct?

7 THE DEFENDANT: Yes.

8 THE COURT: And it's your contention, of course, that
9 you cannot afford to hire an attorney; is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: And therefore, you wish the Court to
12 appoint an attorney for you?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. He's entitled to
15 court-appointed counsel, I find that to be the case and Christy
16 Griffin Serr is appointed to represent him in this case. Ms.
17 Griffin Serr, have you had the opportunity or the time to
18 advise him of his statutory and constitutional rights as to the
19 charges contained in the Indictment?

20 MS. GRIFFIN SERR: I did meet with him and give him
21 those rights briefly, Your Honor.

22 THE COURT: All right. Are you satisfied that he
23 understands those rights?

24 MS. GRIFFIN SERR: I am.

25 THE COURT: I'm going to tell him about those rights

1 again, of course, at this time. Sir, you have the right to a
2 speedy public trial. That means a trial would be brought on
3 promptly for hearing with no undue delays. That trial would be
4 by an impartial jury selected here in the District of South
5 Dakota from the Northern Division, which is where we are now.
6 You have the right, of course, to defend this case both in
7 person and with the assistance of your attorney. Again, you
8 have a right to a copy of the Indictment and you already have
9 that copy; is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: At your trial, if you want a trial, you
12 have a right to meet all the witnesses against you face to face
13 right here in this courtroom. You have the right to hear all
14 the testimony of those witnesses and you have the right to
15 cross-examine those witnesses.

16 You have a right to call witnesses on your own behalf.
17 And you have a right to have subpoenas issued by the Court at
18 public expense to compel the attendance in court of your own
19 witnesses.

20 You have a right not to testify against yourself. In
21 other words, you can testify or not, as you see fit.

22 You also have the right to require that the Government
23 prove these charges against you beyond a reasonable doubt,
24 which means, of course, that each of the 12 jurors would have
25 to be convinced beyond a reasonable doubt of your guilt before

1 that jury could find you guilty on these charges which have
2 been filed against you.

3 Now, at this point, do you have any questions about
4 these rights or how these rights apply to you?

5 THE DEFENDANT: No.

6 THE COURT: Did you understand each of those rights as
7 I just went through them with you?

8 THE DEFENDANT: Yes.

9 THE COURT: And again, you do understand the charges
10 filed against you; is that correct?

11 THE DEFENDANT: Yes.

12 THE COURT: And you understand what the maximum
13 penalties are that you're facing?

14 THE DEFENDANT: Yes.

15 THE COURT: I take it then that you wish to enter a
16 plea of not guilty to all these charges?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. That plea will be entered, not
19 guilty as to each of the charges.

20 Do counsel wish to have access to the jury
21 questionnaires if this case goes to trial?

22 MR. WRIGHT: Yes, sir.

23 MS. GRIFFIN SERR: Yes, sir.

24 THE COURT: That will be so ordered then. Why you
25 wouldn't that, I have no idea, but that's the way we do things

1 here.

2 Well, I think the next item -- I think the Government
3 has the right to that three-day delay for the detention
4 hearing, and so as I said, that detention hearing will be at
5 11:30 next Tuesday.

6 And in the mean time, he's in the custody of the
7 Marshals Service.

8 Is there anything further from counsel then?

9 MR. WRIGHT: No, sir.

10 MS. GRIFFIN SERR: No, Your Honor.

11 THE COURT: I thank you for coming over on short
12 notice, Ms. Griffin Serr.

13 All right. The Court's in recess.

14 (Conclusion of Hearing at 1:36 p.m.)
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1 STATE OF SOUTH DAKOTA)

2) CERTIFICATE

3 COUNTY OF HUGHES)

4
5
6 I, Connie Heckenlaible, Official United States District
7 Court Reporter, Registered Professional Reporter and Notary
8 Public in and for the State of South Dakota, do hereby
9 certify that the above and foregoing transcript has been
10 transcribed to the best of my ability from the District
11 Court's FTR recording system consisting of pages 1 through
12 11.

13 I further certify that I am not a relative or employee
14 or attorney or counsel of any of the parties hereto, nor a
15 relative or employee of such attorney or counsel; nor do I
16 have any interest in the outcome or events of the action.

17 IN TESTIMONY WHEREOF, I have hereto set my hand and
18 official seal this 12th day of November, 2021, at Pierre,
19 South Dakota.

20
21 /s/ Connie Heckenlaible
22 Connie Heckenlaible
23 Registered Professional Reporter
24 225 S. Pierre Street, #217
25 Post Office Box 7147
Pierre, South Dakota 57501
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Connie_Heckenlaible@sdd.uscourts.gov

CONNIE HECKENLAIBLE, RPR

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